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CLERK	RECEIVED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FEB 11 2000

LOUIS V. GABALDONI, M.D.

:

BY

ATTY. EMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

v.

:

CIVIL NO. L-98-1094

:

THE WASHINGTON COUNTY

:

HOSPITAL ASSOCIATION, et al.

:

ORDER

Before the Court is the defendants' Renewed Motion to Compel. The defendants seek production of the plaintiff's personal notes, which he asserts are privileged. For the following reasons, the Court DENIES the Motion.

The Court denied without prejudice the defendants' original Motion to Compel by Order dated August 9, 1999. At a telephone conference held October 1, 1999, the Court directed the parties to reconvene the deposition of Dr. Gabaldoni, for the purpose of determining the basis for the plaintiff's assertion of privilege. The Court's Order dated October 5, 1999 confirmed this instruction. That Order also extended the discovery deadline until November 8, 1999, and extended the deadline for submission of dispositive motions until November 22, 1999.

According to the parties, Dr. Gabaldoni's deposition was reconvened on November 5, 1999. Defendants state they were not satisfied with Dr. Gabaldoni's explanation of his privilege assertions. They did not so inform the Court, however. Instead,

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they filed a Motion for Summary Judgment on November 22, 1999. They did not file their renewed Motion to Compel until December 21, 1999: six weeks after the close of discovery, and four weeks after they had filed their own Motion for Summary Judgment.

The defendants had ample opportunity during the thirty days following Dr. Gabaldoni's November 5, 1999 deposition to inform the plaintiff and the Court that they were unsatisfied with Dr. Gabaldoni's response. This is the normal procedure required by Local Rule 104.8 (D. Md. 1999). The defendants have failed to timely inform the Court. Furthermore, aside from stating they did not receive a transcript of the deposition until November 18, the defendants have provided no explanation for their delay.


Finally, the Court urges both parties to review the requirements of Local Rule 104.8, focusing particularly on the service requirements of Rule 104.8.a. Under this Rule, the parties are to serve motions and memoranda on each other, and not file the Motion and memoranda with the Court until briefing is complete under Rule 104.8.c. They are, however, to file notices of service with the Court. In this case, the defendants filed their Motion and memoranda directly with the Court, prior to briefing being complete. The plaintiff avoided this mistake, but failed to file any notice of service with the Court. This is not the first time in this case the parties have failed to follow Rule 104.8 (see, e.g., the Court's December 14, 1999 Order). The

Court expects that the parties will adhere to the Local Rules in the future.

For the aforementioned reasons, the Court ORDERS that:

- (i) Defendants' Renewed Motion to Compel (docket no. 44) is DENIED.

IT IS SO ORDERED this 10th day of February, 2000.



Benson Everett Legg
United States District Judge